DIRECT INVESTIGATION REPORT

RECOVERY OF MORTGAGE DEFAULT DEBTS

March 2013

Office of The Ombudsman
Hong Kong

CONTENTS

Chapter		*Paragraph*
1	*BACKGROUND*	*1.1 – 1.5*
2	*HD'S ARRANGEMENTS FOR DEBT RECOVERY*	
	Background	*2.1 – 2.4*
	Developments in 2009	*2.5 – 2.8*
	Arrangements in Handling Individual Cases	*2.9 – 2.16*
	Staff Resources	*2.17 – 2.19*
	Time Bar for Legal Action	*2.20 – 2.21*
	Priority in Handling Cases	*2.22 – 2.23*
	Guidelines to Staff	*2.24 – 2.26*
	Progress of Debt Recovery	*2.27 – 2.29*
	Recent Improvements	*2.30 – 2.31*
3	*CASE STUDIES*	*3.1*
	Case 1	*3.2 – 3.7*
	Case 2	*3.8 – 3.10*
	Case 3	*3.11 - 3.13*
	Case 4	*3.14 – 3.16*
	Case 5	*3.17 – 3.19*
	Case 6	*3.20 – 3.24*
	Case 7	*3.25 – 3.28*
	Overall Observations	*3.29*
4	*OBSERVATIONS*	
	General Observations	*4.1 – 4.5*
	Failure to Take Action before 2009	*4.6 – 4.11*
	Progress of Recovery Action	*4.12 – 4.13*
	Priority of Work	*4.14 – 4.16*
	Inefficiency in Searching for Address and Procrastination after Obtaining Address	*4.17 – 4.19*
	Insufficient Guidance to Staff	*4.20 – 4.22*
	Lack of Due Care, Diligence and Monitoring	*4.23 – 4.24*
	Review of Resources to Clear the Backlog	*4.25 – 4.27*

5 RECOMMENDATIONS 5.1 – 5.4

6 Final Remarks
HD Response to Draft Report 6.1 – 6.2
Our final Remarks 6.3 – 6.5

ANNEXES

1 Mortgage Default Claims Paid by HD by year
2 Housing Subsidy Sub-division procedural Guideline for Reviewing Recoverability of Shortfall under Mortgage Default Guarantee

1

BACKGROUND

1.1 It is the policy of the Hong Kong Housing Authority ("HKHA") to issue mortgage default ("MD") guarantees for properties sold under the Home Ownership Assistance ("HOA") schemes[1] in order to secure favourable borrowing terms from the banks for the buyers. Where a property owner defaults on the mortgage, the bank may foreclose the property, and where the proceeds of sale is insufficient to cover the outstanding loan, the bank may make a claim to the Housing Department ("HD"), the executive arm of HKHA, for the shortfall. After settling the MD claim, HKHA is entitled to subrogate the bank's rights to the loan. HD, as executive arm of HKHA, will have both the right and the duty to chase the ex-owner for the recovery of the shortfall.

1.2 Through a complaint case, it came to The Ombudsman's knowledge that although HD had been settling MD claims since 1991, it only started chasing ex-owners for the MD debts 18 years later in 2009.

1.3 On 26 March 2012, The Ombudsman informed HD of his intention, pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance, Cap. 397, to launch a direct investigation into its arrangements for recovery of MD debts. The purpose is to assess the magnitude of the problem and to identify room for improvement.

---

[1] *The HOA schemes are schemes under which HKHA provides subsidised home ownership flats to qualified persons. HOA schemes include Home Ownership Scheme, Tenant Purchase Scheme, Private Sector Participation Scheme and Secondary Market Scheme.*

1.4 In the course of the investigation we studied relevant papers, statistics and case files of HD.

1.5 The draft investigation report was sent to HD on 24 January 2013 for comment, which was received on 16 February. This final report, incorporating HD's comments, was issued on 20 March 2013.

2

HD'S ARRANGEMENTS FOR DEBT RECOVERY

BACKGROUND

2.1 The purpose of HKHA's policy to issue MD guarantees for properties sold under the HOA schemes is to assist buyers in securing favourable borrowing terms from the banks. Since the commencement of the HOA schemes in 1978, HKHA has been issuing MD guarantees in the form of Deed of Guarantee to participating banks. As at 31 March 2011, the outstanding guarantee in respect of the total of 441,901 HOA units sold amounted to $44,915M.

2.2 Some HOA unit owners defaulted on the mortgages, resulting in the bank foreclosing the property and, where the proceeds of sale were insufficient to cover the outstanding loan, making a claim to HD for the shortfall. The first MD claim was settled by HD in 1991. Up to end June 2012, HD had settled MD claims totalling $973M in respect of 4,407 HOA units. A breakdown of the MD claims by year of settlement is at **Annex 1**.

2.3 Although HKHA may, after settling the MD claim, subrogate the bank's rights to the loan (provided for by a clause in the Deed of Guarantee) and chase the ex-owner for recovery of the shortfall, it did not do so for 18 years, ever since the first MD claim was settled in 1991.

2.4 Accounting-wise, the MD guarantees are disclosed in HKHA's accounts as Contingent Liabilities. As part of its budgetary process, a provision for MD claim payments has been set aside every year to meet the obligations. When actual payments are made, they are booked as Expenditure items. As for MD debts, they are not reported as Accounts Receivable in HKHA's accounts. Any MD debts recovered are simply booked as Income items.

DEVELOPMENTS IN 2009

2.5 In 2009 the Internal Audit Unit of HD conducted an audit on HOA units provided under its Secondary Market Scheme. One of the major findings and recommendations of the audit report was as follows:

- Since the commencement of the Secondary Market Scheme in June 1997 and up to November 2008, HKHA had incurred $230M on 826 cases of MD claims under the scheme.

- After settling the claims, HKHA was entitled to subrogate the banks' rights against the debtors. The banks were not required to carry out further debt chasing actions, although they were obliged to refund to HKHA any monies subsequently received from the debtors for repayment of the shortfall.

- To enhance the recoverability of such shortfall, HD should review if further chasing action should be taken against the debtors. HD should set up a mechanism for reviewing the recoverability of the shortfalls, set out procedural guidelines for staff, and make arrangements to keep track of the amounts involved.

2.6 This audit report was presented to the Audit Subcommittee of HKHA on 12 March 2009 and the above recommendation was agreed.

2.7 In late 2009 HD drew up a mechanism for review of the MD debts and taking recovery action. It decided to adopt a low profile approach in chasing the debtors and estimated that the additional workload could be absorbed by existing staff resources. The option of employing private sector

debt collection agents was considered not appropriate in view of the generally negative image of these agents and the additional cost involved.

2.8 Although the above audit recommendation was made in respect of Secondary Market Scheme units, HD in fact provided MD guarantees for all HOA units. Therefore, HD extended its recovery action to all HOA units.

ARRANGEMENTS IN HANDLING INDIVIDUAL CASES

2.9 The steps taken by HD in reviewing MD debts and seeking recovery are outlined below.

2.10 As a first step, HD will write to the bank to find out the address of the debtor and whether there is any repayment plan between him and the bank for the MD shortfall.

2.11 If the bank has a repayment plan with the debtor, it is obliged to refund to HD any monies received from the debtor for repayment of the MD shortfall. For such cases HD will monitor the repayments.

2.12 If the bank's reply is that the debtor is bankrupt, HD will check whether Proof of Debt has been filed with the Official Receiver's Office for the MD shortfall. If Proof of Debt has been filed, HD will monitor dividend repayments until the bankruptcy is discharged. If no Proof of Debt has been filed, HD will make arrangements to file such with the Official Receiver's Office.

2.13 If there is no repayment plan, the debtor is not bankrupt, and his current address is not available from the bank, HD will write to other government units to search for his current address. These government units comprise HD's own Computer Support Section, Hospital Authority ("HA"), Immigration Department ("Imm D"), Transport Department ("TD"), and Social Welfare Department ("SWD").

2.14 Where the debtor' address is available, HD will issue a "first demand letter" to the debtor to arrange for an interview with a view to obtaining repayment or agreeing to a repayment plan. If there is no response

to this first demand letter, HD will re-issue the letter a second time.

2.15 If the debtor's address is not available, or if there is no response to the re-issue of the demand letters, HD will bring up the case for review at a later date.

2.16 Where the debtor can be successfully contacted, the main outcomes and HD's subsequent actions are as follows:

- If the debtor repays the shortfall in full, HD will close the case.

- If the debtor agrees to a repayment plan, HD will monitor future repayments.

- If the debtor applies for deferment of repayment due to financial hardship and HD agrees, HD will bring up the case for review later.

- If the debtor has no financial hardship but is uncooperative, HD will consider taking legal action.

- If it is found that the debtor has died or is suffering from permanent financial hardship (e.g. a debtor who is jobless and over 85 years old), HD will close the case.

STAFF RESOURCES

2.17 The HD team responsible for recovery of MD debts comprises:

- 0.5 Senior Estate Surveyor;
- 1 Estate Surveyor;
- 2 Assistant Housing Managers; and
- 6 Housing Officers.

2.18 Total Notional Annual Mid-point Salary ("NAMs") value of this team amounted to $4.6M.

2.19 Before 2009 this team was responsible for settling MD claims. With the decline in the number of MD claims since about 2009, HD estimated the additional workload of MD debt recovery could be absorbed by the team. In 2012 MD debt recovery constituted about 90% of the day-to-day workload of the team.

TIME BAR FOR LEGAL ACTION

2.20 Legal actions to recover MD debts are subject to time bars governed by the Limitation Ordinance, Cap. 343. For the purpose of identifying the time bars, MD cases may be divided into two types:

- For MD cases where the bank has taken legal action against the debtor and obtained a Judgment Order[2], there is no time bar on legal action to enforce the Judgment.

- For MD cases where the bank has not taken legal action against the debtor and **no** Judgment Order has been issued, the time bar is 12 years from the date of mortgage default. Every time the debtor acknowledges the debt the 12-year time bar will run from the date of acknowledgement.

2.21 In the last four years HD received different legal advice on the limitation period of the first type of cases, as follows:

- In June 2009 when HD commenced this review, its internal lawyers advised that cases involving Judgment Orders were also subject to the 12-year time bar from the date of the Order.

- In October 2011 when HD was contemplating legal action against an uncooperative debtor in a MD case having been issued with a Judgment Order dated 5 December 1996, its internal lawyers

[2] *Some debtors involved in the MD cases are willing to give up their HOA units voluntarily to the bank. In such cases the bank does not have to take legal action against them. Others are not as cooperative. In the uncooperative cases, the bank may have to sue the debtor for the amount due and obtain a court judgment before foreclosing the property. A Judgment Order thus granted by the court may be enforced by HD against the debtor.*

advised that the 12-year time bar did not apply to the right to take legal proceedings by way of execution of the Judgment.

- In October 2012 HD intended to take legal action against an uncooperative debtor in a MD case having been issued with a Judgment Order dated 30 December 1999 and engaged a private law firm for the purpose. The law firm advised that there were different interpretations of the applicability of time bar in such cases and suggested obtaining counsel advice before proceeding.

- In November 2012 counsel advised that there was no time bar in taking legal action to execute the Judgment.

PRIORITY IN HANDLING CASES

2.22 MD cases are prioritised by HD according to their time bar, with those closer to the time bar processed first. The cases are allocated to individual Housing Officers evenly. Each Housing Officer is required to take note of the time bars in prioritising the cases under his management. The supervisors will monitor work progress to ensure this order of priority is followed and re-distribute workload where necessary.

2.23 The order of priority of the cases was re-set every time a different piece of advice on the time bar of cases involving Judgment Order was received from the lawyers:

- Beginning of review in 2009 – all cases were prioritised on the basis of the 12- year time bar.

- October 2011 - On receiving advice that Judgment Order cases were not subject to time bar, such cases were given lower priority.

- October 2012 – Although legal advice was that there were different interpretations of the applicability of time bar to Judgment Order cases, the team re-set priorities on the assumption that such cases were subject to the 12-year time bar.

- November 2012 – On receiving counsel clarification that Judgment Order cases were not subject to time bar, the team re-set priorities again.

GUIDELINES TO STAFF

2.24 Guidelines to staff on recovery of MD debts were first issued in September 2009.

2.25 After we commenced this investigation in March 2012 and raised queries on the time bar for taking legal action on the debtors, HD issued revised guidelines on 31 May 2012, which placed greater emphasis on the procedures for handling cases with a time bar of less than two years (**Annex 2**). Under the revised guidelines, while normal cases are reviewed every one or two years (steps in **para. 2.13 to 2.16**), cases with a time bar expiring in less than two years will be subject to three rounds of review in the last 24 months before expiry of the time bar as follows:

- 1^{st} round review to commence in the 1^{st} month;
- 2^{nd} round review to commence in the 10^{th} month; and
- 3^{rd} round review to commence in the 16^{th} month.

2.26 While the 2009 guidelines provided for debt chasing action to cease upon a case reaching its time bar, the 2012 guidelines provide that cases that have reached their time bar should still be brought up for “regular review”. Although no legal action could be taken in time-barred cases, HD explained that it would continue to make chasing efforts because there might still be a chance that the debtors were willing to pay.

PROGRESS OF DEBT RECOVERY

2.27 As at end June 2012, progress of the 4,407 MD cases was as follows:

a. 1,360 cases (31%) were excluded from the review.
b. 901 cases (20%) had 1^{st} round review completed.

c. 1,398 cases (32%) were in the process of 1st round review.

d. The remaining 748 cases (17%) were pending 1st round review.

2.28 A detailed breakdown of the cases is given below:

	Case status	No.	Follow-up action
a	***Cases excluded from review***	***1360***	
a1	Case time-barred at start of review	67	Nil
a2	Case involving discharged bankruptcy	1293	Nil
b	***Cases with 1st round checking completed***	***901***	
b1	Bankruptcy case	130	Being monitored after Proof of Debt filed
b2	Debt fully repaid	30	Case closed
b3	Case with repayment plan between debtor and HD	54	Repayment being monitored
b4	Payment deferred due to hardship of debtor	398	Case to be brought up for review periodically
b5	Debtor not in hardship but uncooperative	2	Legal action against debtor being considered
b6	Debtor deceased or with permanent hardship	85	Case closed
b7	Debtor cannot be contacted	202	Case to be brought up for review periodically
c	***Cases under 1st round review***	***1398***	
c1	Debtor’s address not yet known	1332	Searching for debtor’s address
c2	Debtor’s address known; 1st demand letter issued	66	Waiting for debtor’s response to 1st demand letter
d	***Cases pending 1st round review***	***748***	
d1	Case time-barred before action could be taken	9	Pending 1st round review
d2	Cases subject to time-bar in 2013-2014	61	Ditto
d3	Cases subject to time-bar in 2015-2022	275	Ditto
d4	Cases not subject to time-bar	275	Ditto
d5	Cases with files already disposed of	105	Ditto
d6	Cases with files still to be located	23	Ditto

2.29 After two and a half years of recovery action, the total amount of debt recovered up to end June 2012 was about $3.4M, or 0.3% of the total MD debt of $973M.

RECENT IMPROVEMENTS

2.30 Since commencement of our investigation in March 2012, HD has introduced a number of enhancement measures to speed up its recovery action:

- Revised guidelines to staff were issued in May 2012 mainly to place greater emphasis on the procedures for handling cases with a time bar of less than two years (**para. 2.25**).

- The number of scheduled interviews with debtors was increased from six per day to 12 per day.

- For debtors receiving CSSA, HD would do paper verification with SWD every year instead of arranging for annual interviews.

- For cases where the debtors were of very low income/very old age, such that the chance of debt recovery was slim, and where there was no immediate time bar, HD would bring them up for review every one and a half year or two years instead of every one year.

2.31 In response to our inquiry, HD advised that its target was to complete 1st round review of all cases (outstanding as at end June 2012) by 2015/16. It would explore ways such as obtaining more staff or extending bring-up intervals (and thus reducing staff time spent on a case) to meet this target.

3

CASE STUDIES

3.1 Our investigation studied over 60 case files. Seven illustrative cases are summarized below.

Case 1

The case

3.2 In October 1993 Mr A and his wife purchased an HOA unit for $699,400 as joint owners. They took out with a bank a mortgage loan of $629,460 which was guaranteed by HKHA.

3.3 When the borrowers defaulted on the mortgage (MD date was 12 September 2000), a Judgment Order was obtained by the bank against them in November 2001, and the unit was foreclosed and resold in May 2003 for $538,000. This was insufficient to cover the outstanding amount. As guarantor of the loan, HKHA settled a shortfall of $146,726 with the bank in February 2005.

3.4 In the meantime, as part of their divorce settlement in 2000, Mr A agreed to transfer the unit from joint ownership to his ex-wife. However, his ex-wife died in 2003 without completing the transfer.

3.5 Although HKHA was entitled to subrogate the right to the loan following its settlement of the shortfall in February 2005, HD did not take any action to recover the debt in the subsequent five years. It was only in 2010

that HD started recovery action, as follows:

- In June 2010 HD wrote to the bank to ask for the addresses of the debtors, and received a negative reply.

- In October and November 2010 HD wrote to other government units to ask for the addresses of the debtors. These were supplied by HA, SWD, and TD in October 2010. In November 2010 Imm D advised that the ex-wife of Mr A had died.

- In April 2011 HD issued a demand letter to Mr A to chase him for the outstanding amount.

- During April to November 2011, Mr A tried to explain to HD that he should not be held responsible for the loan because, as far as he was concerned, he had transferred the unit to his ex-wife. HD did not accept this explanation as the transfer had not been effected.

3.6 Feeling aggrieved, Mr A complained to this Office in November 2011. After investigation, this Office concluded that it was not improper for HD to chase Mr A for the debt, but there had been serious delay in its debt recovery action.

Observations

3.7 We have the following observations:

- There was a delay of five years before HD initiated recovery action.

- Even after initiating action in June 2010, the actions were tardy, taking four months after receiving a negative reply from the bank to write to other government units for the debtors' addresses, and six more months after receiving such to write to Mr A, i.e. a lapse of ten months before HD issued the first demand letter to the debtor.

CASE 2

The case

3.8 The initial stage of this case was similar to Case 1 (**paras. 3.2 to 3.3**), except that no Judgment Order was obtained. In May 2001, as guarantor for borrowers Mr B and his wife, HKHA settled a MD shortfall of $213,687 with a bank. MD date was in January 2000 and the time bar for legal action was January 2012.

3.9 Eight years later, HD started to take recovery action:

- December 2009 to January 2011 – HD issued four rounds of letters to various parties to search for the debtors' addresses, as follows:

  - December 2009 – to the bank; addresses were supplied by the bank.

  - March 2010 – to HD's own Computer Support Section; no records of the debtors were found.

  - June 2010 – to other government departments; addresses were supplied by HA, Imm D and TD.

  - January 2011 – to HA and ImmD to search for Mr B's address again; address was supplied.

- October 2011 – HD issued its first demand letters to the debtors. When the letters were returned unanswered, follow-up letters were sent in December 2011.

- February 2012 – HD decided to close the case as the time bar had been reached in January 2012.

Observations

3.10 We have the following observations:

- There was a delay of eight years before HD initiated recovery action.

- The recovery actions themselves were again very tardy. The search for address was conducted in three stages: with the bank first, then HD's Computer Support Section, and finally with other government departments. Even when addresses were supplied, HD continued to search with other parties; and even after the search ended, HD took nine months to issue its first demand letter. As a result of the delays, HD had spent two years before the first demand letters were issued, only three months before the time bar.

- In February 2012 HD closed the case due to reaching of time bar. This was in keeping with the 2009 guidelines in use at that time.

CASE 3

The case

3.11 In January 2002, as guarantor for borrowers Mr C and his wife, HKHA settled a MD shortfall of $56,567 with a bank. MD date was in July 1999 and the time bar for legal action was July 2011.

3.12 Almost eight years later, HD started to take recovery action as follows:

- December 2009 – HD wrote to the bank to ask for the addresses of the debtors. The bank advised that Mr C was bankrupt and supplied his wife's address.

- July 2010 – HD wrote to its own Computer Support Section for addresses of the debtors but no record was found.

- August and September 2010 – HD wrote to other government departments to ask for the addresses of the debtors. These were supplied by HA, Imm D, SWD and TD.

- October and November 2010 – HD issued its first demand letter and managed to contact Mr C. Mr C advised that he had been declared bankrupt in 2002 and had divorced his wife. He did not know her whereabouts.

- December 2010 – HD checked with the Official Receiver's Office and obtained confirmation that Mr C had been discharged from bankruptcy.

- May to June 2011 – HD wrote to other government units for the address of Mr C's ex-wife. This was supplied by HA, Imm D and SWD

- September to October 2011 – Although the time bar of this case had been reached in July 2011, HD sent four demand letters to Mr C's ex-wife (all unanswered) before closing the case.

Observations

3.13 We have the following observations:

- There was a delay of almost eight years before HD initiated recovery action.

- Even after initiating action, HD took another ten months to issue its first demand letter to the debtors. The search for address was conducted in three stages, with long waits in between.

- After learning about Mr C's bankruptcy from the bank in December 2009, the appropriate course of action for HD should be to obtain the relevant information from the Official Receiver's Office and to file Proof of Debt where appropriate. Instead, HD wasted time and resources in trying to contact Mr C during December 2009 to December 2010, suggesting insufficient

guidance to staff on how to handle such cases.

- In September to October 2011 HD continued to spend time and effort to contact Mr C's ex-wife even after the time bar of the case had been reached. This was inconsistent with the guidelines at that time, although in May 2012 HD's guidelines were revised to provide for further review of time-barred cases.

CASE 4

The case

3.14 In December 2005, as guarantor for borrowers Mr D and Ms DD, HKHA settled a MD shortfall of $206,301 with a bank. MD date was in March 2003 and time bar was March 2015.

3.15 Five years later, HD started to take recovery action as follows:

- September 2010 – HD wrote to the bank to search for the addresses of the debtors. The bank advised that Mr D had been declared bankrupt on 30 October 2003 and Proof of Debt had been filed. The bank also supplied Ms DD's address.

- September 2010 – HD wrote to its own Computer Support Section for the addresses of the debtors. Ms DD's address was supplied.

- November 2010 to February 2011 – HD wrote to other government departments to search for the addresses of the debtors. Addresses were supplied.

- June 2012 – HD sent first demand letter to Ms DD. Ms DD's son phoned HD and supplied a copy of his mother's death certificate (date of death in April 2011).

- July 2012 – HD sent two letters to the bank to ask for the administrator or executor of Ms DD's estate.

3.16 We have the following observations:

- There was a delay of five years before HD initiated recovery action.

- Even after initiating action, HD took almost two years to issue its first demand letter to the non-bankrupt debtor. In the process:

  - although there was no need to do so, HD spent resources in searching for Mr D's address after learning that he was bankrupt and Proof of Debt had been filed. This suggests that insufficient guidance to staff on how to handle such cases.

  - After the bank had supplied Ms DD's address, HD spent more time and resources in continuing to search for her address before issue of its first demand letter.

- After Ms DD's death, HD kept on pursuing her estate. This was inconsistent with the HD guidelines, which provided that cases where the debtor had died should be closed. When we queried HD about the anomaly, HD advised that the continued efforts were an improvement measure to enhance the chance of debt recovery.

CASE 5

The case

3.17 In February 2002, as guarantor for borrower Ms E, HKHA settled a MD shortfall of $96,533 with a bank. The case involved a Judgment Order and there was no time bar on legal action.

3.18 Eight years later HD started to take recovery action as follows:

- March 2010 – HD wrote to the bank to search for the debtor's address. The bank's reply was that no details were available as the case was beyond the bank's normal retention period for old records.

- September 2010 to November 2010 – HD wrote to other government units to search for the debtor's address. These were supplied by HA, Imm D, SWD and TD.

- 4 April 2011 – HD sent two letters to the debtor at two different addresses demanding $96,533. Both were returned unanswered.

- 9 June 2011 – HD sent two follow-up letters to the debtor:

  - one letter demanding $96,533 and referring to its previous letter of 4 April 2011; and

  - another letter demanding (mistakenly) $340,471 and referring (mistakenly) to a previous letter of 7 March 2011.

Observations

3.19 We have the following observations:

- There was a delay of eight years before HD initiated recovery action.

- Even after initiating action, HD took one year to issue its first demand letter to the debtor.

- In response to our inquiry, HD admitted that the letter demanding $340,471 had been issued by mistake. The issue of this demand letter with an incorrect date and amount suggests a lack of due care and diligence on the part of HD staff.

CASE 6

The case

3.20 In May 2006, as guarantor for borrower Ms F, HKHA settled a MD shortfall of $193,523 with a bank. This case involved a Judgment Order and there was no time bar.

3.21 In August 2006 the bank advised HD that Ms F agreed to repay the shortfall by installments of about $747 per month and sent a cashier order to HD. From then onwards HD continued to receive regular repayments through the bank.

3.22 Despite the regular repayments received through the bank, HD wrote to the bank in October 2010 to ask for the address of Ms F and whether she had any repayment plan with the bank. In January 2011 HD went on to search for Ms F's address with its Computer Support Section.

3.23 There was no record on file of any monitoring by HD of the repayments until October 2012. In October 2012, HD took stock of the situation: total repayments amounted to $71,967 and outstanding debt was $121,556.

Observations

3.24 We have the following observations:

- There appeared to be no monitoring of debt repayment before October 2012.

- Despite the regular repayments received through the bank since August 2006, HD treated this as a fresh case of debt recovery in 2010, writing to the bank for details of the debtor and initiating an address search. This suggests a lack of due care and diligence.

CASE 7

The case

3.25 In March 2005, as guarantor for borrowers Mr G and another person, HKHA settled a MD shortfall of $9,945 with a bank.

3.26 In January 2009, the bank forwarded a cashier order for $239 to HD being repayment made by Mr G's daughter. From then onwards HD continued to receive regular repayments of about $239 per month via the bank.

3.27 There was no record on file of any monitoring by HD of the repayments until October 2012. HD took stock of the situation in October 2012 and found out that total repayments amounted to $10,790, resulting in an overpayment of $845.

Observations

3.28 This case shows that there was no monitoring of debt repayment before October 2012.

OVERALL OBSERVATIONS

3.29 A number of observations can be made on the cases. There were long delays between HD obtaining the right to the MD debts and commencement of debt recovery action. The recovery actions themselves were tardy. The procedures for searching addresses were inefficient and there was much procrastination after addresses were obtained. Some cases suggest that there was a lack of due care and diligence. Other cases show that HD had provided insufficient guidance and training to staff. Furthermore, with a sizeable workload and a large backlog of 748 cases pending 1st round review, HD was spending time and resources to pursue time-barred cases and deceased cases, begging the question of whether resources were being used efficiently. These observations are discussed more fully in **Chapter 4**.

4

OBSERVATIONS

GENERAL OBSERVATIONS

4.1 HKHA has adopted a policy of issuing MD guarantees for HOA properties for a good reason, viz, to obtain more favourable mortgage terms from the banks for the buyers, which is one of the service targets of the HOA schemes. However, so long as the HOA schemes and this policy of MD guarantee continue, HKHA will be subject to the potential liability of MD claims and may accumulate more MD debts. From 1991 to June 2012 HKHA accumulated a total of $973M of collectible debts related to MD. This is no small sum of money and the amount may well increase in future. Although the recoverability of MD debts may be low, HD needs to have a proper system to monitor and manage the collectible debts.

4.2 A proper system to recover collectible debts is needed not only from a financial management point of view, but also because failure to chase the debts will send a wrong message to the debtors that they can get away with not repaying government debts, and indirectly contribute to a culture of financial delinquency in the community.

4.3 In the MD debt recovery exercise, HD's biggest fault has been its inaction in the 18 years following settlement of the first MD claim and acquisition of the rights to the debt. This deficiency was remedied after the internal audit of 2009, when HD set up a mechanism to review the MD debts and start chasing the debtors.

4.4 HD has chosen to adopt a low profile approach in the debt recovery exercise. This is understandable, as most of the debtors are among the less advantaged groups in our society, with about one-third of them bankrupt and a fair proportion being CSSA recipients. .

4.5 However, HD has not been efficient in its arrangements and progress of debt recovery has been slow.

FAILURE TO TAKE ACTION BEFORE 2009

4.6 HD has both the right and the duty to seek recovery of the MD shortfall from the debtor as soon as it settles a MD claim with the bank. By failing to take any action for 18 years, an immediate consequence was that 31% of MD cases could not be pursued at the start of the review exercise in 2009. Also, the time lapse added to HD's difficulties in pursuing the remaining cases. Some debtors felt aggrieved that HD was chasing them for debts incurred such a long time ago and after their circumstances had changed, as shown in **Case 1** of the case studies in Chapter 3. In some cases, the banks had destroyed the mortgage records (**Case 5**). In other cases (not reported in Chapter 3), even HD itself had disposed of the relevant files (**para. 2.28, item d5**).

4.7 By leaving collectible debts unchased and unacknowledged, HD has failed to properly manage the MD debts, which are public money. Furthermore, a wrong signal may have been sent to the community that government debts need not be repaid.

4.8 When we asked about the reason for its failure to take action for 18 years, HD gave three explanations:

a. *The number of MD claims up to 2000 was small, averaging at around 30 cases a year, compared with the average of more than 12,000 HOA flats provided for sale every year. As a result of economic recession, the number of MD claims increased from 2001 onwards. Until 2009 HD's priority of work was to settle the MD claims from the banks.*

We do not find this explanation acceptable. While this may be a plausible explanation from the small HD team referred to in **para. 2.17**, it is not an acceptable explanation for HD as a department.

b. *In the initial years recovery action was basically undertaken by the banks.*

Our investigation has shown that out of the 4,407 MD cases, HD received repayment through the banks in seven cases, or 0.16% of all cases. Furthermore, it has always been clear to HD that the banks are **not** required to carry out further debt actions after HD has settled the MD claim, although they are obliged to refund to HD any monies subsequently received from the debtors. This explanation is, therefore, also not acceptable.

c. *Taking early action might not be productive, as the banks had exhausted their efforts to chase the debtors before making MD claims to HD, and the debtors were in financial hardship at the time.*

This explanation cannot justify a 18-year delay. No mechanism was in place before 2009 to bring up cases for review of the debtors' financial situation.

4.9 In short, the three explanations appear to be more HD's excuses to rationalise its inaction, rather than factors considered at the time in deciding not to take action. We have seen no evidence that the inaction was HD's conscious decision. The information that we have suggests that the failure was a result of oversight.

4.10 Upon our further enquiries, HD confirmed that there was no record of any thought or discussion being given to the recovery of these collectible MD debts before the internal audit of 2009. In our opinion, there were many occasions in the course of the years when queries should have been raised and the matter should have been considered, such as:

- when the policy to provide MD guarantee for HOA properties was first adopted and the consequences of the policy should have been thought through;

- when the first Deed of Guarantee was drawn up and the clause on subrogation of the bank's right to the mortgage loan was considered;

- during the annual budgetary process when provision had to be made for the guarantee payments (e.g. in 2006/07 alone HD made a provision of $219M for these payments); and

- when actual payments were made (e.g. in 2006/07 alone HD settled MD claims amounting to $208M).

4.11 We find it inconceivable that the need to recover the debts never crossed HD's mind until the internal audit of 2009. This may be symptomatic of more serious problems in its internal management and control systems. We consider that HD should draw lessons from this experience and adopt a more alert and vigilant approach in managing public money in future.

PROGRESS OF RECOVERY ACTION

4.12 Progress of the recovery exercise is not satisfactory. Of the 3,047 cases that required a review as of June 2012 (i.e. categories b, c and d in **para.2.28**), 1st round review was completed on 901 cases (30%), 1,398 cases (46%) were in the process of 1st round review, and action was not yet started on 748 cases (24%) after two and a half years of work. HD's target is only to complete 1st round review of the cases by 2015/16.

4.13 The reasons for the slow progress include the late start of the exercise and lack of cooperation from the debtors. However, inefficient procedures and practices also caused some delays. These are discussed below.

PRIORITY OF WORK

4.14 HD's rule is to process the MD cases in the order of their date of time bar. Each Housing Officer is required to take note of the time bars in prioritising the cases under his management, and the supervisors will re-distribute workload where necessary.

4.15 Our investigation has shown that these arrangements have failed to achieve their desired result. On the one hand, there is an outstanding backlog of 748 outstanding cases (including 61 cases with time bars in 2013 and 2014) waiting for 1st round review. On the other hand, HD staff is spending time and effort on:

- cases with either no time bar or time bars in later years (**Cases 1**, **4** and **5**).
- cases which have already reached their time bar (**Case 3**); and
- cases where the debtor has deceased (**Case 4**).

4.16 HD should review its operational and monitoring arrangements to ensure that the appropriate order of priority is followed. It should consider, among other things, whether efforts should continue to be made to pursue time-barred and deceased-debtor cases, taking into account the resources available, the existing case backlog and the effectiveness of such efforts.

INEFFICIENCY IN SEARCHING FOR ADDRESS AND PROCRASTINATION AFTER OBTAINING ADDRESS

4.17 The case studies show that it is usual for HD to take one to two years from its initial action of searching for address to issue of its first demand letter (**Cases 1**, **2**, **3**, **4** and **5**). The search for address is usually conducted in three stages: with the bank, HD's Computer Support unit, and other government departments sequentially. The process can take from a few months to over one year. After addresses are obtained, it is usual for HD to procrastinate for months and sometimes over one year before issuing its first

demand letter to the debtor to arrange a first interview. The debtor may have changed his address in the meantime.

4.18 HD attributed the delays to their heavy workload, the need sometimes to re-set priorities, its practice of batching the requests for addresses, and not having enough interview rooms for meetings with debtors.

4.19 We consider that HD should review its workflow with a view to streamlining the procedures, paying particular attention to, among other things, whether its batching and staging arrangements for searching addresses are efficient and whether the MD team can be given access to more interview rooms. We note that the team is situated in the HD Headquarters and it is difficult to conceive that no other interview rooms can be made available in the enormous building.

INSUFFICIENT GUIDANCE TO STAFF

4.20 From our case studies, it is observed that some HD staff do not seem to have the knowledge and competence to handle some of the MD cases, suggesting insufficient training and guidance to the staff. For example, the correct course of action to take after learning that a debtor has been bankrupt is to file Proof of Debt. However, in **Cases 3** and **4**, HD staff kept on trying to contact the debtors concerned instead, wasting time and resources in the process.

4.21 An examination of HD's current staff guidelines (issued in May 2012) shows that the steps to be taken by staff and the actions to be taken in the event of different outcomes are not set out clearly. For example, the flow chart at Annex 4 of the guidelines (see **Annex 2**) is illogical and confusing. Some examples of anomalies are given below:

- According to the flow chart, where the debtor is not in hardship and HD tries to negotiate with him for a repayment plan, the only outcome is "Receive and Monitor Repayment & Update Records". It overlooks other possible outcomes such as the debtor being uncooperative and where legal action should be considered.

- According to the flow chart, where the debtor cannot be contacted and the case is brought up for review at a later stage, the only outcome is "Deceased/Permanent Hardship". It overlooks other possible outcomes, such as the debtor being subsequently contacted or agreeing to repayment.

4.22 We consider that HD should review carefully its guidelines and strengthen training for its staff.

LACK OF DUE CARE, DILIGENCE AND MONITORING

4.23 Our case studies show that there was a lack of due care and proper monitoring in the handling of some cases. Below are some examples.

- In **Case 5**, a letter with mistakes in both date and amount of debt was sent to the debtor.

- In **Case 6**, HD had been receiving regular repayments from the debtor through the bank since 2006, and yet it treated this as a fresh case of debt recovery in 2010, writing to the bank to enquire whether there was any repayment plan and starting an address search.

- In **Case 7**, HD continued to receive repayments for at least three months after the debt had been fully repaid, suggesting insufficient monitoring of cases.

4.24 HD should exercise due care and diligence in handling the MD debt cases and enhance monitoring of staff performance.

REVIEW OF RESOURCES TO CLEAR THE BACKLOG

4.25 It is evident that recoverability of the MD debts is low and it is appropriate for HD not to pour resources into the exercise. However, when HD estimated in 2009 that it did not require additional resources for the exercise, it was looking at a debt of $230M arising from 826 cases from the

Secondary Market Scheme. The true size of the MD debt problem from all the HOA schemes is $973M arising from 4,407 cases. After two and a half years' of work, HD is less than half way through its 1st round review of cases. The backlog is so large that it is affecting action on the newer cases and the recoverability of the younger debts.

4.26 The slow progress is partly due to inefficient procedures and practices as discussed above. Nevertheless, it appears that in 2009 HD might have under-estimated the workload required.

4.27 HD should review its resource requirements with a view to clearing 1st round review of the backlog. While a permanent addition of resources to this exercise may not be justified, temporary redeployment of staff to clear the backlog seems to be called for.

5

RECOMMENDATIONS

5.1 HD needs to have a proper system to manage and monitor the recovery of its MD debts, both for financial management reasons and to avoid giving the community the wrong message that debts owed to the government need not be repaid.

5.2 HD's oversight and failure to take any debt recovery action for 18 years after acquiring the right to the MD debts is unacceptable. Besides, even after the setting up of a mechanism in 2009 for debt recovery, progress has been unsatisfactory and the procedures and arrangements put in place are defective.

5.3 Having said that, HD's low profile approach in chasing the MD debtors is understandable as they are among the less advantaged groups in our society.

5.4 Our recommendations to the Director of Housing are set out below.

(1) To draw lessons from this experience and to adopt a more alert and vigilant approach in managing public money in future (**para. 4.11**).

(2) To review its operational and monitoring arrangements to ensure that the appropriate order of priority is followed. It should consider, among other things, whether and how much effort should continue to be made to pursue time-barred and deceased-debtor

cases, taking into account the resources available, the existing case backlog and the effectiveness of such efforts (**para. 4.16**).

(3) To review its workflow with a view to streamlining the procedures, paying particular attention to, amongst other things, whether its batching and staging arrangements for searching addresses are efficient and whether the MD team can be given access to more interview rooms (**para. 4.19)**.

(4) To review carefully its guidelines and strengthen training for its staff (**para. 4.22**).

(5) To exercise due care and diligence in handling the MD debt cases and enhance monitoring of staff performance (**para. 4.24**).

(6) To use its best efforts to meet its target of completing 1^{st} round review of all outstanding cases (as at end June 2012) by year 2015/16, by staff redeployment or any other means. (**paras. 4.27 and 6.3**).

6

FINAL REMARKS

HD RESPONSE TO DRAFT REPORT

6.1 When given a draft copy of this report for comment, HD generally accepted the recommendations made in the draft report. HD's comments have been incorporated into this final report where appropriate.

6.2 In addition, HD made two points:

a. Regarding review of its resource requirements to clear the backlog (**para. 4.27**), HD indicated that it would have difficulty to deploy any additional staff to this exercise because it had been recently tasked with a number of new housing initiatives (such as accelerating the construction of public rental housing) which had to be given higher priority.

b. As for the deficiencies observed in Chapter 3 and 4 of this report, HD said that most of them were found in the initial stage when the debt recovery mechanism was first set up (i.e. 2009 and 2010), and since then improvements had been made from time to time.

OUR FINAL REMARKS

6.3 Regarding HD's comment in **para. 6.2(a)**, we do appreciate the recent increase in HD's workload, and accept that it is indeed the prerogative of HD management to set its priorities in resource allocation. However, undue

delay in this exercise is unacceptable. In **paras. 4.1 and 4.2** we have explained the importance of a proper system to manage the MD debts which are public money. We would urge HD to use its best efforts, whether by staff redeployment or by other means, to meet its target of completing 1st round review of all outstanding cases (as at end June 2012) by year 2015/16 (**para. 2.31**). We have therefore modified the wording of our recommendation from that in **para. 4.27** to **para. 5.4(6)**.

6.4 Regarding HD's comment in **para. 6.2(b)**, while some of the deficiencies (such as failure to deal with bankruptcy cases appropriately (**para. 4.20**)) occurred during the initial stage of the exercise, the majority of the deficiencies observed by us are still current (including failure to accord appropriate priority to outstanding cases (**para. 4.15**), inefficient arrangements for search of address (**para. 4.17**), and faults in the latest guidelines issued in May 2012 (**para. 4.21**)).

6.5 The Ombudsman is pleased that HD has accepted the recommendations of this report, and grateful to the Director of Housing and his staff for cooperation throughout the investigation.

Office of The Ombudsman
Ref.: OMB/DI/274
March 2013

Annex 1
(para. 2.2)

Mortgage Default Claims Paid by HD by year
(Position at end June 2012)

Year	No. of cases
1991	10
1992	13
1993	24
1994	5
1995	22
1996	14
1997	66
1998	29
1999	74
2000	74
2001	155
2002	294
2003	313
2004	675
2005	599
2006	1,076
2007	563
2008	203
2009	108
2010	69
2011	8
2012 (to end June)	0
Year of payment still being investigated by HD	13
Total	**4,407**

Annex 2
(para. 2.25)

(For Internal Use)

Housing Subsidy Sub-division
Procedural Guideline for Reviewing Recoverability of Shortfall under Mortgage Default Guarantee

Purpose

The purpose of this guideline is to set out the operational procedures for handling cases on the review of recoverability with particular reference to those cases with statutory time bar (STB) expiring within 2 years.

Determination of Statutory Time Bar Date (STBD)

2. According to legal advice, for cases where a Judgement Order for the mortgage debt has been obtained by the financial institutions, the judgment creditor will have no time constraints in making application or taking proceedings for the execution of the judgement.

3. For cases with no Judgement Order for the mortgage debt, section 19 of the Limitation Ordinance is applicable, i.e. no action shall be brought to recover any principal sum of money secured by a mortgage or other charge on property, or to recover proceeds of the sale of land, after the expiration of 12 years from the date when the right to receive the money accrued. The right to receive the money shall mean the date when the demand for the whole amount of loan was made by the mortgagee.

4. Under section 23(3) of the Limitation Ordinance, where any right of action has accrued to recover any debt, and the person liable acknowledges the claim or makes any payment in respect thereof, the right shall be deemed to have accrued on the date of the acknowledgement or the last payment. Therefore, if we can get the ex-borrower to acknowledge the claim or make a payment on the debt, the STBD will be counted from the date the ex-borrower acknowledges the claim or makes payment on the debt to HA. In other words, every time the ex-borrower acknowledges or repays the debt, the STBD will be extended for another 12 years.

Handling Cases with STBD due to Expiry within 2 Years

5. The effect of the statutory time bar period is that after the STBD, i.e. the last day of the statutory time bar period, HA can no longer take legal action to recover the debt. As such, it is necessary to strengthen monitoring of cases with STBD due to expiry within 2 years.

6. For general guidance, the handling HO is expected to complete 3 rounds of address/telephone checking within the last 2 years before the STB expires to locate the ex-borrowers at least 3 months before the STBD. The HO should take note of the STBD and set the priority of work for individual cases under his/her purview. HM/ES and AHMs should ensure that HOs are aware of their respective duties and the time limits provided therefore.

7. Detailed procedures in dealing with this type of cases are summarized at Annex 1. The time limits set out in this guideline (including the Annexes) should be adhered to whenever possible and we should exhaust all our efforts and means for recovery of shortfall before the STBD is reached. The cases would still be reviewed regularly after the expiry of the STBD.

8. For urgent cases when the normal processing time as set out in this guideline (including the Annexes) cannot be applied, immediate action to process the case has to be taken.

Handling Cases with no STB or with STBD more than 2 Years

9. The reviewing methodology is basically similar to the 1st round checking in Annex 1. Detailed procedures in dealing with this type of cases are summarized at Annex 2.

10. For bring-up (BU) review cases involving ex-borrower who is currently recipient of Comprehensive Social Security Allowance, review by confirmation memo from SWD may be sufficient if the STBD is more than 2 years. If the STBD is due to expire within 2 years, the ex-borrower should be invited for another interview and sign another acknowledgement so that the STBD will be further extended.

Handling Bankruptcy Cases

11. The effect of the bankruptcy order (B.O.) is, the person against whom the B.O. has been made, commences bankruptcy on the date when the bankruptcy order is made and continues until the B.O. is discharged. Hence, what the HA can do during the bankruptcy period is to file a claim or proof of debt against the bankrupt to the Official Receiver (OR).

12. After the bankrupt is discharged from bankruptcy, according to section 32 of the Bankruptcy Ordinance, the discharge will release the bankrupt from all bankruptcy debts. Therefore, if the OR is not able to obtain funds from the estate of the bankrupt to pay back the bankruptcy debts before the bankruptcy is discharged, there is nothing HA can thereafter do for the recovery of the debt from the bankrupt who is then not obliged to repay to HA the outstanding debt. Such case should be recommended for approval for NFA. Detailed procedures in dealing with this type of case are summarized at Annex 3.

Time-line Control on Handling Cases

13. For general guidance, all the cases are expected to be concluded within 5 months, unless explicitly mentioned otherwise in this guideline (including the Annexes). For special or hardcore cases, further advice/directives should be sought before the end of the 5-month period.

Commencement

14. This guideline takes effect on the date of its promulgation and supersedes the previous guideline (Procedural Guidelines for Carrying out Review of Recoverability of the Shortfall under Mortgage Default Guarantee) issued in September 2009.

Signed
(Danny LAU)
Senior Estate Surveyor/HS(1)

Encls.

Annex 1 : Procedure in Dealing with Cases with STBD due to Expiry within 2 Years

Annex 2 : Procedure in Dealing with Cases with no STB or with STBD more than 2 Years

Annex 3 : Procedure in Dealing with Bankruptcy Cases

Annex 4 : Flow Chart for Actions on Review of Recoverability

Promulgated to : All staff handling reviewing recoverability under SES/HS(1)

Date : 31.5.2012

Procedure in Dealing with Cases with STBD due to Expiry within 2 Years

Procedure		Action	Action Officer
1. Check & screen the register & case file	(a)	Re-confirm the STBD basing on the records in the register and documents available in the case file.	HO
	(b)	If in doubt about the STBD, seek agreement with AHM.	AHM
	(c)	Update the current STBD in the register, if necessary.	HO
2. 1st round checking	(a)	Send memos/letters to CSS, Immigration Dept., SWD, Transport Dept., Lender, Hospital Authority to search for addresses and telephone numbers of ex-borrowers.	HO
	(b)	Send 1st Demand Letter to the ex-borrower(s).	
	(c)	If not turn up, send out 2nd Demand Letter.	
	(d)	Try telephones numbers to remind the ex-borrower(s) to attend the scheduled second interview.	
	(e)	If not turn up again, try the telephone numbers again to see whether the ex-borrower received the demand letters and whether the address is correct.	
	(f)	If telephone contact is not viable and no response is received, recommend BU for conducting 2nd round checking.	
	(g)	AHM, HM/ES & SES/HS(1) to consider the BU recommendation.	AHM, HM/ES & SES/HS(1)
	(h)	Update the BU date in the register within 4 working days after approval.	HO
	(i)	The actions in 2(a) to 2(h) should be completed within the first 9 months of the 2-year period.	
3. 2nd round checking	(a)	The 2nd round checking should be commenced in the 10th month of the 2-year period.	HO
	(b)	Repeat actions in 2(a).	
	(c)	Repeat actions in 2(b) to 2(e) to new addresses and telephone numbers obtained.	

		(d)	If necessary, repeat actions in 2(b) to 2(e) to addresses and telephone numbers obtained in 1st round checking.	
		(e)	If telephone contact is not viable and no response is received, recommend BU for conducting 3rd round checking.	
		(f)	AHM, HM/ES & SES/HS(1) to consider the BU recommendation.	AHM, HM/ES & SES/HS(1)
		(g)	Update the BU date in the register within 4 working days after approval.	HO
		(h)	The actions in 3(a) to 3(g) should be completed before the 16th month of the 2-year period.	
4.	3rd round checking	(a)	The 3rd round checking should be commenced in the 16th month of the 2-year period.	HO
		(b)	Repeat actions in 2(a).	
		(c)	Repeat actions in 2(b) to 2(e) to new addresses and telephone numbers obtained.	
		(d)	If necessary, repeat actions in 2(b) to 2(e) to addresses and telephone numbers obtained in 1st & 2nd round checking.	
		(e)	If still fruitless, make recommendation for regular review of the case.	
		(f)	The actions in 4(a) to 4(e) should be completed before the 22nd month of the 2-year period.	
5.	Regular review of case	(a)	HO must pass the file to AHM for consideration at least 3 months before the STBD.	HO
		(b)	After scrutiny and consideration, AHM will give his/her recommendation.	AHM
		(c)	AHM must pass the file to HM/ES for consideration at least 2 months before the STBD.	
		(d)	After screening and consideration, HM/ES will recommend the case for regular review.	HM/ES
		(e)	HM/ES must pass the file to SES/HS1 for consideration for regular review at least 1 month before the STBD.	
		(f)	Update relevant records in the register within 4 days after approval.	HO

Procedure in Dealing with Cases with no STB or with STBD more than 2 Years

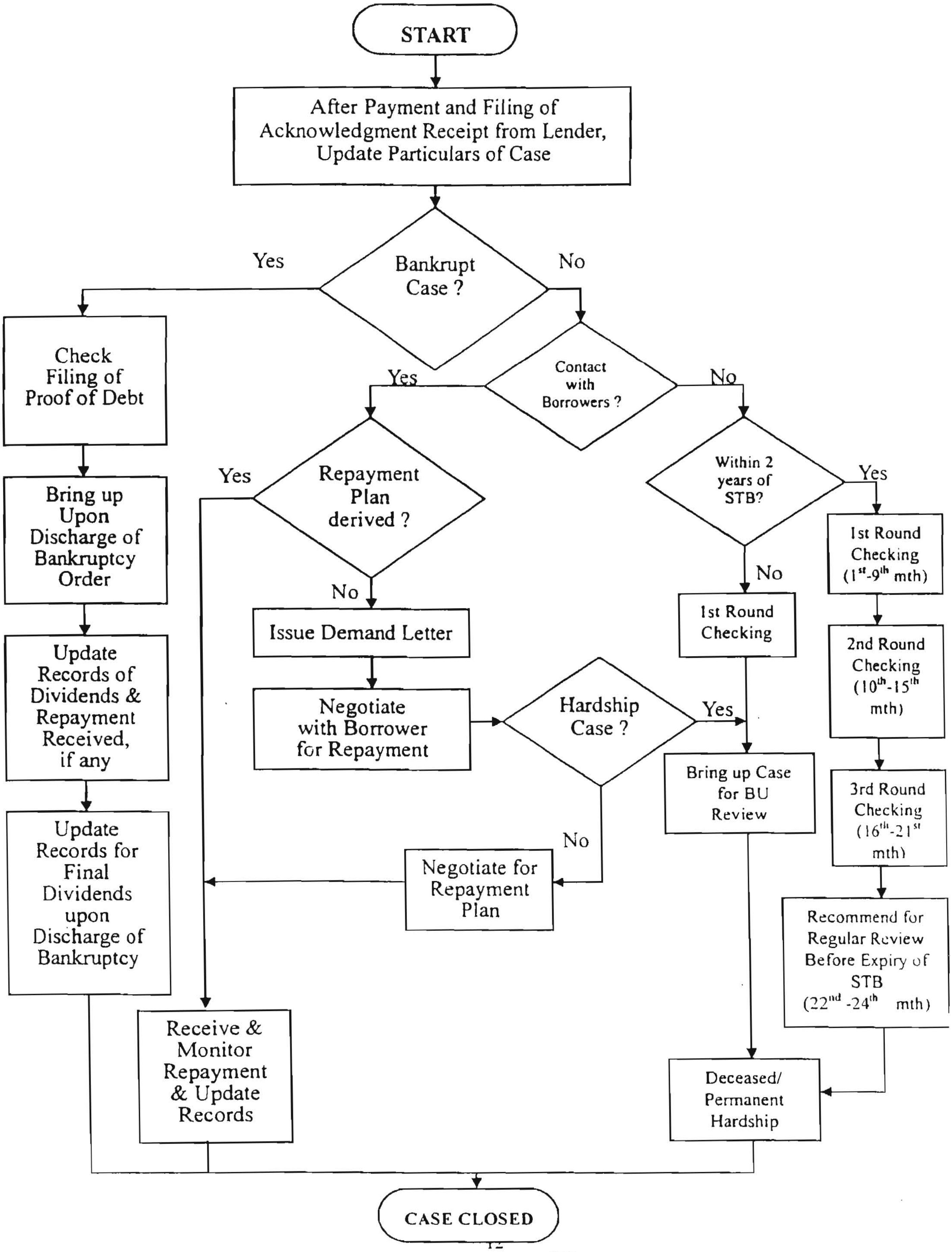
	Procedure		Action	Action Officer
1.	Check & screen the register & case file	(a)	Re-confirm the STBD basing on the records in the register and documents available in the case file.	HO
		(b)	If in doubt about the STBD, seek agreement with AHM.	AHM
		(c)	Update the current STBD in the register, if necessary.	HO
2.	1st round checking	(a)	Send memos/letters to CSS, Immigration Dept., SWD, Transport Dept., Lender, Hospital Authority to search for addresses and telephone numbers	HO
		(b)	Send 1st Demand Letter to the ex-borrower(s).	
		(c)	If not turn up, send out 2nd Demand Letter.	
		(d)	Try telephones numbers to remind the ex-borrower(s) to attend the scheduled second interview.	
		(e)	If not turn up again, try the telephone numbers again to see whether the ex-borrower received the demand letters and whether the address is correct.	
		(f)	If telephone contact is not viable and no response is received, recommend BU review after 1 year for further checking.	
		(g)	AHM, HM/ES & SES/HS(1) to consider the BU recommendation.	AHM, HM/ES & SES/HS(1)
		(h)	Update the BU date in the register within 4 working days after approval.	HO
		(i)	The actions in 2(b) to 2(h) should be completed within 5 months from the date of 1st Demand Letter to the ex-borrower.	
		(j)	If 1st Demand Letter cannot be issued within 5 months upon address searching, the case should be brought up for consideration of AHM, HM/ES & SES/HS(1).	AHM, HM/ES & SES/HS(1)
3.	BU review of untraceable case	(a)	The BU review should be commenced according to the approved BU date.	HO

		(b)	Repeat actions in 2(a).	
		(c)	Repeat actions in 2(b) to 2(e) to new addresses and telephone numbers obtained.	
		(d)	If necessary, repeat actions in 2(b) to 2(e) to addresses and telephone numbers obtained in 1st round checking.	
		(e)	If telephone contact is not viable and no response is received, recommend BU review after 1 year for further checking.	
		(f)	AHM, HM/ES & SES/HS(1) to consider the BU recommendation.	AHM, HM/ES & SES/HS(1)
		(g)	Update the BU date in the register within 4 working days after approval.	HO
		(h)	The actions in 3(b) to 3(g) should be completed within 5 months from the date of 1st Demand Letter to the ex-borrower.	
		(i)	If 1st Demand Letter cannot be issued within 5 months upon address searching, the case should be brought up for consideration of AHM, HM/ES & SES/HS(1).	AHM, HM/ES & SES/HS(1)
4.	BU review of traceable case	(a)	The BU review should be commenced according to the approved BU date.	HO
		(b)	Send 1st Notification Letter to the ex-borrower.	
		(c)	If not turn up, send out 2nd Notification Letter.	
		(d)	Try telephones numbers to remind the ex-borrower(s) to attend the scheduled second interview.	
		(e)	If not turn up again, try the telephone numbers again to see whether the ex-borrower received the notification letters and whether the address is correct.	
		(f)	If telephone contact is not viable and no response is received, recommend BU review after 1 year for further checking.	
		(g)	AHM, HM/ES & SES/HS(1) to consider the BU recommendation.	AHM, HM/ES & SES/HS(1)
		(h)	Update the BU date in the register within 4 working days after approval.	HO
		(i)	The actions in 4(b) to 4(h) should be completed within 5 months from the date of 1st Notification Letter to the ex-borrower.	

(j)	If 1st Notification Letter cannot be issued within 5 months, the case should be brought up for consideration of AHM, HM/ES & SES/HS(1).	AHM, HM/ES & SES/HS(1)

Procedure in Dealing with Bankruptcy Cases

	Procedure		Action	Action Officer
1.	Check & screen the register & case file	(a)	If bankruptcy is detected, re-confirm it basing on the records in the register and documents available in the case file.	HO
2.	Cases with insufficient details	(a)	Collect the required information such as the Bankruptcy Order (B.O.)/Discharge Order from the ex-borrower and/or the Lender.	HO
		(b)	Send memo to Official Receiver (OR) to confirm the information, if necessary.	
		(c)	If bankruptcy cannot be confirmed within 5 months, treat it as non-bankruptcy case and handle it according to its STBD.	
3.	B.O. not yet discharged	(a)	If no PoD has been filed and the Bankruptcy Order has not been discharged, file the PoD.	HO
		(b)	Recommend BU the case in the month after 4 years from the date of B.O.	
		(c)	After checking the relevant documents, AHM will pass the file to HM/ES.	AHM
		(d)	After scrutiny and consideration, HM/ES will pass the file to SES/HS1 for approval for BU.	HM/ES & SES/HS(1)
		(e)	Upon approval, update the BU date, records of dividends and repayments received, if any.	HO
4.	B.O. discharged	(a)	The case should be brought up for review according to the approved BU date if any.	HO
		(b)	Confirm the bankrupt is discharged from bankruptcy. If necessary, send memo to OR.	
		(c)	Update records of dividends and repayments received, if any.	
		(d)	Recommend closing the case if the bankrupt has been discharged.	
		(e)	After checking the relevant documents, AHM will pass	AHM

	the file to HM/ES.	
(f)	After scrutiny and consideration, HM/ES will pass the file to SES/HS1 for approval for NFA.	HM/ES & SES/HS(1)
(g)	Upon approval, update relevant records in the register to close the case.	HO

Flow Chart for Actions on Review of Recoverability